**BEFORE THE**
Federal Communications Commission
**WASHINGTON, D.C.**



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| In the Matter of | ) | |
| | ) | |
| Implementation of Section 304 of the Telecommunications Act of 1996 | ) | CS Docket No. 97-80 |
| | ) | |
| | ) | |
| Commercial Availability of Navigation Devices | ) | |

# COMMENTS OF SCIENTIFIC-ATLANTA IN RESPONSE TO FURTHER NOTICE OF PROPOSED RULEMAKING

Scientific-Atlanta is a leading supplier of transmission networks for broadband access to the home, digital interactive subscriber systems designed for video, high speed Internet and voice over IP (VOIP) networks and worldwide customer service and support. The company is a supplier of navigation devices to cable operators. We would like to address several issues raised in the Commission's Further Notice of Proposed Rule Making or FNPRM.

Scientific-Atlanta supports efforts to assure the commercial availability of navigation devices used for video programming and other applications. Commercial or retail availability provides an additional outlet for the manufacturers of these navigation devices. This provision is subject to a number of common sense caveats in the statute, including that: the security of cable systems and other network providers not be jeopardized; the introduction of new technology not be interfered with; and any standards setting should rely on the voluntary industry process.

Scientific-Atlanta is a long-time supporter of the cable industry's OpenCable development efforts and has been an active participant in developing many of the required specifications. Scientific-Atlanta believes that open-standards based platforms are in the long-term best interests of all participants. Our network has been developed using many open standards.

When the FCC issued its Report & Order setting the July 1, 2000 deadline for delivering PODs, Scientific-Atlanta took its role in this process very seriously by immediately selecting a team of personnel with the necessary skill sets to lead the effort and assure success for our customers. From the beginning, we recognized that the schedule was very aggressive. The cable industry had requested a goal of September 2000, but the FCC mandated July 1, 2000. This aggressive schedule required a focused and highly dedicated team to manage the product. The company selected a group of engineers and software developers to be specifically assigned solely to this project, hired additional personnel from outside the company where necessary, and called on support from scores of other employees where necessary. The dedicated "POD Squad," as the team came to be known, never lost focus of the July 1 mandate and consistently elevated to the highest management of Scientific-Atlanta issues that could impede this success. The top management consistently supported resolution of these issues, often at additional expense.

During the two years of development efforts, Scientific-Atlanta participated in every engineering standards meeting, interop testing, CableLabs status review, and other related function. The company was required by its cable operator (MSO) customers to provide a weekly report and participate in a weekly conference call with CableLabs executives to report in detail on every step of the development process. We were required to identify any schedule-impeding issues and report how we were going to resolve these issues. It was most unusual for a project at Scientific-Atlanta to come under such intense outside scrutiny. Although CableLabs scheduled Interop events for interoperability testing, Scientific-Atlanta went way beyond this requirement by hosting many of the participants in our labs for ongoing testing in between the industry events. We invited other would-be host suppliers to our labs to test interoperability and they reciprocated. This cooperation effort between competitors is unprecedented, but shows the industry dedication to success.

Scientific-Atlanta ultimately made it possible for its customers to meet the July 1, 2000 mandate by delivering to its customers prior to July 1, PowerKEY POD modules and performing an extensive software upgrade to the MSOs network. The company also developed and delivered host set-tops at no charge to our customers so that they could test and demonstrate POD-host functionality on their system. In total Scientific-Atlanta estimates that it spent over $4,000,000 on the POD/Host development effort. We did this with best intentions for our customers and the FCC and without any indication of when, if ever, we will receive a return on this tremendous investment.

In developing an OpenCable-compliant device for the retail market, Scientific-Atlanta, which has limited experience in retail markets, relied on the representations of the

retailers and Commission that, if such a device were to be developed, a market would exist. However, notwithstanding our successful efforts to develop such a device, no such market currently exists. In addition, we have attempted to sell host devices to retailers, but have not had any success to date. This lack of interest throws doubt on the credibility of the retailers, since they never specifically raised the specter or possibility that no market would exist if such a device were developed and since it was originally the proposal of the retailers to approach the commercial availability problem in this manner.

The lack of retailer interest also throws into doubt the other mandate in this proceeding - the 2005 sunset date for digital integrated devices. If the retailers and Commission cannot accurately gauge changes in the marketplace over two years, then how can projections be made four or five years in advance? What new evidence has been presented to the Commission that the retailers currently have a better grasp of the market than they did two years ago? This is particularly relevant, because the retailers now suggest advancing the sunset date to 2002. By any reasonable standard, based on what has happened in this proceeding to date, even the 2005 sunset date makes little sense.

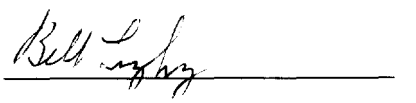
The effect of the ban on digital, integrated devices, will be directly contrary to the main goal of the Commission in this proceeding - to help the consumer. The ban will reduce the options available to the consumer. They will no longer have the option of leasing or purchasing an integrated device. Mandating the POD-host device concept will also increase costs to the consumer. Instead of purchasing or leasing one integrated device with all of the functions, the consumer will have to buy or lease two such devices - a POD and a host. Historically, the costs of providing one integrated device in lieu of two separate devices have almost always been lower and cheaper and the same is true in the case of the POD-host combination. Thus, consumers will pay more if the 2005 ban remains in effect. Based on the record to date, not only will the consumer have to pay more and have fewer options, the consumer may not even have a viable option of purchasing either of these devices in a retail outlet if the retailers continue to decline to purchase host devices.

Scientific-Atlanta has developed and is beginning deployment of an integrated box with a POD slot. The company has offered to sell this type of device to retailers as well as cable operators. The claims by retailers that the device they would sell is different from or lesser than an operator provided device are incorrect. We have offered this exact same device, with no differentiation, to both MSO customers and retailers. No retailer has chosen to place an order for this product even though it could have been available to them at this time. Clearly, this type of device, particularly if made available to retailers, would meet the requirements of the Commission for retail or commercial availability.

The Commission raises the issue as to why a retail market for cable modems is developing in certain regions of the country, but there are no host devices available at retail for set-tops. Cable modems are a much simpler device than digital set-tops, generally offering a much narrower range of services and applications. In addition, we note that there has been no government intervention in the cable modem market as was done in the separate security requirement for the set-top market. Rather than suggesting that the Commission needs to do something more to ensure retail availability, the retail market for cable modems suggests that the Commission should do less and rely more on market place forces.

In conclusion, Scientific-Atlanta has spent considerable resources in its efforts to comply with the FCC mandate. While its technical efforts at compliance have been successful, no market for POD-host devices has as of yet developed. We believe that the current situation warrants a review of the original rationale for and repeal of the 2005 sunset date.

Respectfully submitted,



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